

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:04CR3003
Plaintiff,)	
)	
v.)	USM No: 18293-047
)	
MARVIN T. STARKS,)	<u>DAVID R. STICKMAN</u>
Defendant.)	Defendant's Attorney
Date of previous judgment: 1/10/2005)	

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 151 months is reduced to 130 months.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>29</u>	Amended Offense Level: <u>27</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>151</u> to <u>188</u> months	Amended Guideline Range: <u>130</u> to <u>162</u> months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

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The reduced sentence is within the amended guideline range.

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The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

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Other (explain):

III. ADDITIONAL COMMENTS

Filings 50 and 56 are granted to the extent provided herein, but they are otherwise denied. I have given the defendant the maximum reduction allowed under the retroactive amendments to the "crack" Guidelines, but I will not give him more and I will not engage in a complete resentencing. *See, e.g., United States v. Perez*, 2008 WL 2309497 (D.Neb. June 4, 2008). Even if I had the discretion to do more (which I do not), I would impose the same sentence as expressed in this order because of the defendant's extensive criminal record. Except as provided above, all provisions of the judgment dated January 10, 2005 shall remain in effect.

IT IS SO ORDERED.

Dated this 9th day of July, 2008
Effective Date: Wednesday, July 9, 2008

S/Richard G. Kopf
United States District Judge